

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1231*

House Bill No. 1339

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 17, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Forensic analyst" means any expert in the scientific detection of crime within the forensic services division of the Tennessee bureau of investigation or within a regional crime laboratory under the supervision of the director of the bureau; and

(2) "Remote testimony" means any method by which a forensic analyst testifies from a location other than the location where the hearing or trial is being conducted and outside the physical presence of a party or parties.

(b) The court may permit remote testimony by a forensic analyst in any criminal proceeding only if:

(1) The state has provided a copy of any report produced by the forensic analyst that the state is seeking to admit into evidence through remote testimony to the defendant at least fifteen (15) days prior to the proceeding;

(2) The defendant agrees to permit remote testimony;

(3) The court finds that the defendant's agreement was knowing and voluntary; and

(4) The court and the state agree to permit remote testimony.



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(c) Any remote testimony conducted under this section must allow all parties to observe the demeanor of the analyst as the analyst testifies in a similar manner as if the analyst were testifying in the location where the hearing or trial is being conducted. The court shall ensure that the defendant has a full and fair opportunity for examination and cross-examination of the analyst.

SECTION 2. This act takes effect July 1, 2021, the public welfare requiring it.

Amendment No. _____

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AMEND Senate Bill No. 1142*

House Bill No. 1171

by deleting all language after the enacting clause and substituting the following:

SECTION 1. This act is known and may be cited as the "Firearms Information Privacy Protection Act."

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 17, Part 13, is amended by adding the following as a new section:

(a) If a person intentionally discloses information that identifies another person as the purchaser or owner of a firearm, firearm ammunition, or firearm accessory for purposes of compiling or facilitating the compilation of a federal firearms registry or database or the confiscation of firearms, then the person disclosing the information is subject to a private right of action by the person whose information was disclosed.

(b) A court may award the person whose information was disclosed and prevails in an action under this section:

(1) A minimum of seventy-five thousand dollars (\$75,000) in statutory damages per intentional violation of subsection (a);

(2) Actual damages;

(3) Punitive damages;

(4) Other forms of equitable relief; and

(5) Reasonable costs and attorney fees.

(c) This section does not apply to information that is provided to a government entity pursuant to § 39-17-1316, § 39-17-1351, § 39-17-1365, or § 39-17-1366, federal law, or as part of a criminal investigation.



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SECTION 3. Tennessee Code Annotated, Title 39, Chapter 17, Part 13, is amended by adding the following as a new section:

(a) It is an offense for an employee of this state, a local governmental entity, or a political subdivision of this state to intentionally disclose information that identifies another person as the purchaser or owner of a firearm, firearm ammunition, or firearm accessory for the purpose of:

(1) Compiling or facilitating the compilation of a federal firearms registry or database; or

(2) The confiscation of firearms.

(b) This section does not apply to information that is provided to a government entity pursuant to § 39-17-1316, § 39-17-1351, § 39-17-1365, or § 39-17-1366, or as part of a criminal investigation.

(c) A violation of this section is a Class A misdemeanor.

SECTION 4. This act takes effect July 1, 2021, the public welfare requiring it.

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AMEND Senate Bill No. 1285*

House Bill No. 1312

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 10-7-504, is amended by adding the following as a new subsection:

(aa)

(1) Photographic evidence of a fatal motor vehicle accident that depicts a deceased minor victim at the scene of the accident shall be treated as confidential and shall not be open for inspection by members of the public.

(2) The custodial parent or legal guardian of the deceased minor victim whose photograph is made confidential pursuant to subdivision (aa)(1) may waive confidentiality and allow the minor victim's photograph to be used and obtained in the same manner as other public records.

(3) This subsection (aa) does not:

(A) Restrict the application of Rule 16 of the Tennessee Rules of Criminal Procedure in any court or the disclosure of information required of counsel by the state or federal constitution;

(B) Limit or deny access to otherwise public information because a file, document, or data file contains a photograph made confidential by subdivision (aa)(1); provided, that the photograph must be removed before any access is granted to a member of the public; or



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(C) Limit access to records by law enforcement agencies, courts, or other governmental agencies engaged in investigating or prosecuting a criminal offense.

(4) As used in this subsection (aa), "photographic evidence" and "photograph" mean any photograph or photographic reproduction, still or moving, or any videotape.

SECTION 2. This act takes effect July 1, 2021, the public welfare requiring it.

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AMEND Senate Bill No. 1373*

House Bill No. 1433

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-13-103(b), is amended by adding the following new subdivision (b)(4) and redesignating the current subdivision (b)(4) as subdivision (b)(5):

(4) Reckless endangerment by discharging a firearm from within a motor vehicle, as defined by § 55-1-103, is a Class C felony.

SECTION 2. This act takes effect July 1, 2021, the public welfare requiring it.



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Comm. Amdt. _____

AMEND Senate Bill No. 1391*

House Bill No. 1388

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-1307, is amended by deleting the section and substituting:

(a)

(1) A person commits an offense who possesses a firearm; and:

(A) Has been convicted of a felony crime of violence, an attempt to commit a felony crime of violence, or a felony involving use of a deadly weapon; or

(B) Has been convicted of a felony drug offense.

(2) An offense under subdivision (a)(1)(A) is a Class B felony.

(3) An offense under subdivision (a)(1)(B) is a Class C felony.

(4) It is an exception to subdivision (a)(1)(B) that:

(A) The person has been pardoned for the offense;

(B) The conviction has been expunged; or

(C) The person's civil rights have been restored pursuant to title 40, chapter 29, and the prior offense did not involve the possession, use, or attempted use of a firearm.

(b)

(1) A person commits an offense who possesses a handgun and has been convicted of a felony unless:

(A) The person has been pardoned for the offense;



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(B) The felony conviction has been expunged; or

(C) The person's civil rights have been restored pursuant to title 40, chapter 29.

(2) An offense under subdivision (b)(1) is a Class E felony.

(c)

(1) A person commits an offense who possesses a deadly weapon other than a firearm with the intent to employ it during the commission of, attempt to commit, or escape from a dangerous offense as defined in § 39-17-1324.

(2) A person commits an offense who possesses any deadly weapon with the intent to employ it during the commission of, attempt to commit, or escape from any offense that is not defined as a dangerous offense by § 39-17-1324.

(3) An offense under this subsection (c) is a Class E felony.

(d)

(1) A person commits an offense who possesses a firearm and:

(A) Has been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921, and is still subject to the disabilities of the conviction;

(B) Is, at the time of the possession, subject to an order of protection that fully complies with 18 U.S.C. § 922(g)(8);

(C) Is prohibited from possessing a firearm under any other state law;

(D) Has been adjudicated as a mental defective, as defined in 27 C.F.R. 478.11, or judicially committed to a mental institution;

(E) Is illegally or unlawfully in the United States;

(F) Has been discharged from the armed forces under dishonorable conditions; or

(G) Has renounced the person's United States citizenship.

(2) It is an exception to subdivision (d)(1)(A) that:

(A) The person has been pardoned for the offense;

(B) The conviction has been expunged; or

(C) The person's civil rights have been restored pursuant to title 40, chapter 29.

(3) If the person is licensed as a federal firearms dealer or a responsible party under a federal firearms license, the determination of whether such an individual possesses firearms that constitute the business inventory under the federal license shall be determined based upon the applicable federal statutes or the rules, regulations and official letters, rulings and publications of the bureau of alcohol, tobacco, firearms and explosives.

(4) For purposes of this section, a person does not possess a firearm, including, but not limited to, firearms registered under the National Firearms Act (26 U.S.C. § 5801 et seq.), if the firearm is in a safe or similar container that is securely locked and to which the person does not have the combination, keys, or other means of normal access.

(5) A violation of subdivision (d)(1) is a Class A misdemeanor and each violation constitutes a separate offense.

(6) If a violation of subdivision (d)(1) also constitutes a violation of § 36-3-625(h) or § 39-13-113(h), the respondent may be charged and convicted under any or all such sections.

SECTION 2. Tennessee Code Annotated, Section 39-17-1308, is amended by deleting the section.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that

can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 4. This act takes effect July 1, 2021, the public welfare requiring it.

Amendment No. _____

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FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1531

House Bill No. 427*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-13-505, is amended by deleting subsection (c) and substituting instead the following:

(c) For purposes of this section, a victim is incapable of consent if:

(1) The sexual contact with the victim occurs during the course of a consultation, examination, ongoing treatment, therapy, or other provision of professional services described in subdivision (c)(2); and

(2) The defendant, whether licensed by the state or not, is a member of the clergy, healthcare professional, or alcohol and drug abuse counselor who was treating the victim for a mental, emotional, or physical condition.

(d) Sexual battery is a Class E felony.

SECTION 2. This act takes effect July 1, 2021, the public welfare requiring it.



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Amendment No. _____

Signature of Sponsor

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Comm. Amdt. _____

AMEND Senate Bill No. 281*

House Bill No. 955

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 37-1-129(a)(1), is amended by deleting the language "§ 37-1-153(b)(2)" and substituting the language "§ 37-1-153(b)(1)(B) or (b)(2)".

SECTION 2. Tennessee Code Annotated, Section 37-1-131, is amended by adding the following new subsection:

(e) Notwithstanding this section to the contrary, the court shall prohibit a child who is adjudicated delinquent for conduct that, if committed by an adult, would constitute the offense of aggravated rape, under § 39-13-502, rape, under § 39-13-503, rape of a child, under § 39-13-522, or aggravated rape of a child, under § 39-13-531, from accepting employment or volunteering in any capacity that the child knows or reasonably should know will cause the child to be in close and frequent contact with a minor until the child reaches eighteen (18) years of age. This subsection (e) does not prohibit the child from accepting employment or volunteering in a position that involves incidental contact with minors. Notwithstanding this section to the contrary, the prohibition required by this subsection (e) must remain in effect until the child attains eighteen (18) years of age, regardless of the other terms of the child's disposition.

SECTION 3. This act takes effect July 1, 2021, the public welfare requiring it, and applies to acts committed on or after that date.



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Amendment No. _____

Signature of Sponsor

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Date _____

Time _____

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Comm. Amdt. _____

AMEND Senate Bill No. 1480*

House Bill No. 1480

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-417(g)(1), is amended by deleting the language "one-half (1/2) ounce (14.175 grams)" and substituting the language "one (1) ounce (28.350 grams)".

SECTION 2. Tennessee Code Annotated, Section 39-17-418(b), is amended by deleting the subsection and substituting the following:

(b)

(1) It is an offense for a person to sell or distribute marijuana in an amount less than one (1) ounce (28.350 grams).

(2) It is an offense for a person to knowingly possess or casually exchange marijuana in an amount less than one (1) ounce (28.350 grams).

(3) As used in this subsection (b):

(A) "Casually exchange" means the spontaneous passing of a small amount of marijuana that does not involve, in exchange for the marijuana, the payment of money or a gift card, debit card, credit card, or other card, coupon, or token that is capable of being exchanged for money, merchandise, or goods; and

(B) "Marijuana" means marijuana in the form of a plant and does not mean marijuana in another form, including, but not limited to, a resin, compound, derivative, concentrate, or oil.



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SECTION 3. Tennessee Code Annotated, Section 39-17-419, is amended by deleting the language "It may be inferred" and substituting the language "Except as provided in subsection (b), it may be inferred".

SECTION 4. Tennessee Code Annotated, Section 39-17-419, is amended by redesignating the current language as subsection (a) and adding the following as a new subsection:

(b) The intent to sell or otherwise dispense shall not be inferred solely from the possession or casual exchange of less than one (1) ounce (28.350 grams) of marijuana as defined in § 39-17-418(b)(3)(B); however, other relevant facts surrounding the arrest may be used to infer such intent.

SECTION 5. This act takes effect July 1, 2021, the public welfare requiring it.

Amendment No. _____

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Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 707*

House Bill No. 1102

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-32-101(g)(1)(B)(i), is amended by deleting the subdivision and substituting instead:

(i) Section 39-13-101(a)(1) and (2) – Assault, if the offense was committed prior to July 1, 2000;

SECTION 2. Tennessee Code Annotated, Section 40-32-101(g)(1), is amended by adding the following as a new appropriately designated subdivision:

() Notwithstanding subdivision (g)(1)(B) to the contrary, a person who was convicted of an offense that was eligible for judicial diversion, pursuant to § 40-35-313, at the time of sentencing, except for the offense of assault under § 39-13-101(a)(1) or (2) committed prior to July 1, 2000;

SECTION 3. This act takes effect July 1, 2021, the public welfare requiring it, and applies to petitions for expunction filed on or after that date.



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Amendment No. _____

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Time _____

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AMEND Senate Bill No. 448*

House Bill No. 1086

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 30, Part 1, is amended by adding the following language as an appropriately designated section:

Whenever a law enforcement agency discovers new evidence deemed potentially exculpatory by the chief law enforcement officer of the agency, the agency shall report the evidence to the district attorney currently serving in the jurisdiction in which the case was prosecuted, the trial court in which the conviction was obtained, the individual convicted in the case in which the evidence was secured, and that individual's attorney, if such individual is represented by counsel, within thirty (30) days of the discovery of the evidence.

SECTION 2. Tennessee Code Annotated, Title 40, Chapter 30, is amended by adding the following language as a new part:

40-30-401. Short title.

This part is known and may be cited as the "Post-Conviction Fingerprint Analysis Act of 2021."

40-30-402. Part definitions.

As used in this part, unless the context otherwise requires, "fingerprint analysis" means the processes through which fingerprints are analyzed and compared for identification purposes, including, but not limited to, latent print comparisons and searches in fingerprint databases.

40-30-403. Petition requesting analysis.



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(a) Notwithstanding part 1 of this chapter, or any other law governing post-conviction relief to the contrary, any appropriate party may, at any time, file a petition requesting the performance of fingerprint analysis of any evidence that is in the possession or control of the prosecution, law enforcement, laboratory, or court, and that is related to the investigation or prosecution that resulted in a judgment of conviction and that may contain fingerprint evidence.

(b) As used in this section, "any appropriate party" means:

- (1) A court on its own motion;
- (2) A district attorney general; or
- (3) A person convicted of and sentenced for the commission or attempted commission of:
 - (A) First degree murder;
 - (B) A Class A felony;
 - (C) A Class B felony;
 - (D) Any lesser included offense of an offense in subdivisions (b)(3)(A)-(C); or
 - (E) Any other offense, at the direction of the court.

40-30-404. Court order if probable that exculpatory results would not have resulted in prosecution or conviction.

After notice to the prosecution and an opportunity to respond, the court shall order fingerprint analysis if the court finds that:

- (1) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through fingerprint analysis;
- (2) The evidence is still in existence and in such a condition that fingerprint analysis may be conducted;

(3) The evidence was never previously subjected to fingerprint analysis, was not subjected to the analysis that is being requested which could resolve an issue not resolved by previous analysis, or was previously subjected to analysis and the person making the motion under this part requests analysis that uses a new method or technology that is substantially more probative than the prior analysis; and

(4) The application for analysis is made for the purpose of demonstrating innocence and not to unreasonably delay the execution of sentence or administration of justice.

40-30-405. Court order if probable that results would have resulted in a more favorable verdict or sentence.

After notice to the prosecution and an opportunity to respond, the court may order fingerprint analysis if the court finds that:

(1) A reasonable probability exists that analysis of the evidence will produce fingerprint results that would have rendered the petitioner's verdict or sentence more favorable if the results had been available at the proceeding leading to the judgment of conviction;

(2) The evidence is still in existence and in such a condition that fingerprint analysis may be conducted;

(3) The evidence was not previously subjected to fingerprint analysis, was not subjected to the analysis that is now requested which could resolve an issue not resolved by previous analysis, or was previously subjected to analysis and the person making the motion under this part requests analysis that uses a new method or technology that is substantially more probative than the prior analysis; and

(4) The application for analysis is made for the purpose of demonstrating innocence and not to unreasonably delay the execution of sentence or administration of justice.

40-30-406. Payment for analysis.

If an order is issued pursuant to § 40-30-404, then the court shall order the analysis and payment pursuant to § 40-30-413, if necessary. If an order is issued pursuant to § 40-30-405, the court may require the petitioner to pay for the analysis, unless the petitioner is determined indigent by the court.

40-30-407. Appointment of counsel for indigents.

The court may, at any time during proceedings instituted under this part, appoint counsel for an indigent petitioner.

40-30-408. Court order for production of laboratory reports, underlying data, and notes.

If evidence has previously been subjected to fingerprint analysis by either the prosecution or defense, the court may order the prosecution or defense to provide all parties and the court with access to the laboratory reports prepared in connection with the fingerprint analysis, as well as the underlying data and laboratory notes. If any fingerprint or other evidence analysis was previously conducted by either the prosecution or defense without knowledge of the other party, the analysis shall be revealed in the motion for analysis or response, if any. If the court orders fingerprint analysis in connection with a proceeding brought under this part, the court shall order the production of any laboratory reports prepared in connection with the fingerprint analysis and may, in the court's discretion, order production of the underlying data and laboratory notes.

40-30-409. Preservation of evidence during pendency of proceeding — Sanctions.

When the petition is not summarily dismissed, the court shall order that all evidence in the possession of the prosecution, law enforcement, laboratory, or the court

that could be subjected to fingerprint analysis must be preserved during the pendency of the proceeding. The intentional destruction of evidence after such an order may result in appropriate sanctions, including criminal contempt for a knowing violation of the court's order.

40-30-410. Laboratory selection.

If the court orders analysis, the court must select the laboratory used by the original investigating agency if the laboratory is capable of performing the required analysis. If the laboratory used by the original investigating agency is not capable of performing the required analysis, the court shall select a laboratory that the court deems appropriate.

40-30-411. Orders in discretion of court.

The court may, in its discretion, make such other orders as may be appropriate.

40-30-412. Analysis results — Dismissal of petition — Order for hearing.

If the results of the post-conviction fingerprint analysis are not favorable to the petitioner, the court shall dismiss the petition, and make further orders as may be appropriate. If the results of the post-conviction fingerprint analysis are favorable, the court shall order a hearing, notwithstanding any law or rule of court that would bar the hearing as untimely, and thereafter make orders as are required or permitted by the Rules of Criminal Procedure or part 1 of this chapter.

40-30-413. Payment for analysis.

If an order is issued requiring fingerprint analysis be paid on behalf of a petitioner pursuant to this part, then the payment shall be made from funding provided for indigent defendants' counsel as set forth within the annual appropriations act. The payment shall be made only after receipt by the administrative director of the courts of a certified copy of the order and only upon receipt of a bill from the laboratory that conducted the analysis. The bill shall set forth the name of the petitioner, the date the analysis was

performed, the amount of the bill, and the name and address of the laboratory to which payment is to be made.

SECTION 3. The headings to sections, chapters, and parts in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 4. This act takes effect July 1, 2021, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

AMEND Senate Bill No. 802*

House Bill No. 1063

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 28, is amended by adding the following as a new part:

40-28-701. Short title.

This part is known and may be cited as the "Tennessee Rebound Act."

40-28-702. Part definitions.

As used in this part, unless the context requires otherwise:

(1) "Baseline parole failure rate per district" means the average number of adult parolees returning to prison during calendar years 2022–2024, as a percentage of the average adult parolee population during the same period per district, including those parolees returning to prison for a revocation of parole, parolees returning to prison for a conviction of a new offense, and parolees returning to prison for conviction of a new offense who simultaneously have their parole term terminated;

(2) "Baseline probation failure rate per district" means the average number of adult probationers returning to prison during calendar years 2022–2024, as a percentage of the average adult probation population during the same period per district, including those probationers returning to prison for a revocation of probation, probationers returning to prison for a conviction of a new offense, and probationers returning to prison for conviction of a new offense who simultaneously have their probation term terminated;

(3) "Comparative performance data" means an estimate of the number of adult probationers and parolees, if any, each district successfully prevented from returning to



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prison, calculated based on the reduction in the district's parole and probation failure rates, adjusted for changes in each district's adult probation and parole caseload in the most recent completed calendar year as compared to the district's adult probation and parole population during the calendar years 2022–2024;

(4) "District" means a probation and parole district of the department of correction;

(5) "Division" means the division of probation and parole field services of the department of correction;

(6) "Evidence-based practices" means supervision policies, procedures, technology, programs, and practices demonstrated by scientific research to reduce recidivism among persons under probation, parole, or post-release supervision;

(7) "Marginal cost of incarceration" means the sum of all short-term variable costs associated with incarcerating a person in a Tennessee state facility that marginally change in proportion to the inmate population of a facility;

(8) "Returning to prison" means any period of detention that is fourteen (14) days or greater;

(9) "Statewide baseline parole failure rate" means the average number of adult parolees returning to prison during calendar years 2022–2024, as a percentage of the average adult parolee population during the same period, including those parolees returning to prison for a revocation of parole, parolees returning to prison for a conviction of a new offense, and parolees returning to prison for conviction of a new offense who simultaneously have their parole term terminated; and

(10) "Statewide baseline probation failure rate" means the average number of adult probationers returning to prison during calendar years 2022–2024, as a percentage of the average adult probation population during the same period, including those probationers returning to prison for a revocation of probation, probationers returning to

prison for a conviction of a new offense, and probationers returning to prison for conviction of a new offense who simultaneously have their probation term terminated.

40-28-703. Allocation of funds.

(a) It is the intent of the general assembly that all amounts allocated for purposes of implementing this part shall be appropriated to the division to administer the implementation of programs, as specified in this part.

(b) The funds must be transferred from the general fund to the department of correction, which shall make the appropriate calculations pursuant to § 40-28-707(e) and disburse funding to eligible districts for use as follows:

(1) Fifty percent (50%) to the division for evidence-based practices; and

(2) Fifty percent (50%) to the division for bonuses for all officers within a given district that receives incentive funding.

(c) In any fiscal year in which a district receives money to be expended for the implementation of this part, the funds must be made available to the department of correction, within thirty (30) days of the deposit of those moneys, for the implementation of programs authorized by this part.

(d) The comptroller of the treasury may periodically audit the monetary allocation to the specific divisions tasked with administering funds to ensure that disbursed funds are being appropriately used as specified in this part.

(e) The funds must be used to improve supervision, rehabilitative, and reentry services, which may include, but are not limited to, the following:

(1) Implementing and expanding evidence-based risk and needs assessments for individualized programming;

(2) Implementing and expanding graduated sanctions;

(3) Expanding the availability of evidence-based practices, including, but not limited to, drug and alcohol treatment, mental health treatment, anger

management, cognitive behavior programs, and job training and employment services;

(4) Hiring additional officers, associates, or other personnel to supervise, oversee, and implement evidence-based practices;

(5) Giving bonuses to officers in districts that are awarded funds under this part; and

(6) Evaluating the effectiveness of evidence-based practices and ensuring program fidelity.

(f) The department of correction shall maintain a complete and accurate accounting of any and all funds received and disbursed pursuant to this part.

(g) The implementation of this section is subject to funding in the general appropriations act.

40-28-704. Outcome-based measures.

(a) The division shall define and track specific outcome-based measures.

(b) The outcome-based measures must include, but are not limited to, the following:

(1) The percentage of persons on probation and parole who are being supervised in accordance with evidence-based practices;

(2) The supervision policies, procedures, programs, and practices that are eliminated; and

(3) The percentage of persons on probation and parole who successfully complete the period of supervision.

(c) The funds received by the division must be accounted for in an annual written report to the chairs of the appropriate standing committees of the house of representatives and the senate.

(d) The department of correction shall evaluate the effectiveness of the program.

40-28-705. Data collection requirements.

(a) After the conclusion of each calendar year, beginning January 1, 2022, the division shall gather data to calculate the following:

- (1) The probation failure rate per district;
- (2) The statewide probation failure rate;
- (3) The parole failure rate per district;
- (4) The statewide parole failure rate; and
- (5) The current total population of probationers and parolees per district

as of the date of the required report.

(b) After the conclusion of the calendar year beginning January 1, 2025, the division shall gather data to calculate the following:

- (1) The baseline probation failure rate per district;
- (2) The baseline statewide probation failure rate;
- (3) The baseline parole failure rate per district; and
- (4) The baseline statewide parole failure rate per district.

(c) After the conclusion of each calendar year beginning January 1, 2025, the division shall gather data to calculate the following for that calendar year:

- (1) The comparative performance data;
- (2) The historical failure rate for the last three (3) years per district; and
- (3) The statewide historical failure rate for the last three (3) years.

(d) If data of sufficient quality and of the types required for the implementation of this part is not available, the department shall use the best available data to estimate probation and parole failure reduction rates utilizing a methodology that is as consistent with that described in this part as is reasonably possible.

40-28-706. Marginal cost of incarceration.

(a) After the conclusion of each calendar year beginning January 1, 2022, the department shall calculate the marginal cost of incarceration for prison for that calendar year.

(b) The calculation described in subsection (a) must take into consideration factors, including, but not limited to, the average length of stay in prison for persons returning to prison from probation or parole and variable corrections costs, such as healthcare services, food, and clothing.

(c) If a person on parole or probation spends less than fourteen (14) days in detention, then that person's detention will not apply to calculations outlined within this part.

40-28-707. Reinvestment payments.

(a) Beginning January 1, 2026, the department of finance and administration, in consultation with the department of correction, shall calculate a reinvestment payment for the department of correction and a probation and parole failure reduction incentive payment for each district that has successfully improved outcomes based on comparative performance data for the most recently completed calendar year.

(b) The total reinvestment payment to the department of correction must equal the total number of probationers and parolees successfully prevented from returning to prison compared to the statewide baseline probation and parole failure rates multiplied by forty-five percent (45%) of the marginal cost of incarceration for a person returning to prison.

(c) The funds must be directed primarily to the division, but may also be used, to the extent necessary, to fulfill reporting requirements pursuant to § 40-28-708.

(d) Each district eligible for incentive funding, based on positive comparative performance data, must be included in the incentive funding calculation described in subsection (e). Any district that does not have positive comparative performance data is excluded from the incentive funding calculation.

(e) The incentive payment for each eligible district is equal to the number of probationers and parolees successfully prevented from returning to prison in that district

compared to the district-specific historical baselines, multiplied by forty-five percent (45%) of the marginal cost of incarceration for a person returning to prison.

(f) The calculation described in subsection (e) must be done for each district, and then added together.

(g) The division shall proportionately disburse the district incentive funds as probation and parole failure reduction incentive payments to each eligible district based on the calculation in subsection (e).

(h) The implementation of this section is subject to funding in the general appropriations act.

40-28-708. Reporting.

(a) Commencing no later than eighteen (18) months following the initial receipt of funding pursuant to this part, and annually thereafter, the department of correction shall submit a comprehensive report on the implementation of this part to the governor and the chairs of judiciary committee of the senate and the criminal justice committee of the house of representatives.

(b) The report must include, but is not limited to, the following information:

(1) The percentage of adult probationers and parolees whose supervision was revoked for the year on which the report is being made;

(2) The percentage of probationers and parolees who were convicted of offenses during their term of supervision for the year on which the report is being made;

(3) The number of probationers and parolees whose supervision was revoked solely for a violation of the terms of probation or parole, and the number of probationers and parolees whose supervision was revoked because of the commission of a new offense;

(4) The effectiveness of programs based on the reports of outcome-based measures pursuant to § 40-28-704;

(5) The impact of the funds appropriated pursuant to this part; and

(6) Any recommendations regarding resource allocations or additional collaboration with other state, regional, federal, or local entities for improvements to this part.

40-28-709. Appropriations.

It is the intent of the general assembly that:

(1) The total funds earned as a result of improved outcomes in the department of correction each year be included and reflected in the budget the following year; and

(2) Funds allocated pursuant to this part be used to supplement, not supplant, any other state or district appropriation for the supervisory probation or parole agent or the probation or parole department.

SECTION 2. This act is not an appropriation of funds, and funds shall not be obligated or expended pursuant to this act unless the funds are specifically appropriated by the general appropriations act.

SECTION 3. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

AMEND Senate Bill No. 893

House Bill No. 870*

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 40-24-105(a), is amended by deleting the last sentence of the subsection and substituting:

The following shall be the allocation formula for moneys paid into court: the first moneys paid in any case shall first be credited toward the payment of restitution owed to the victim, if any, and once restitution has been paid in full, the next moneys shall be credited toward payment of litigation taxes, and once litigation taxes have been paid, the next moneys shall be credited toward payment of costs; then additional moneys shall be credited toward payment of the fine.

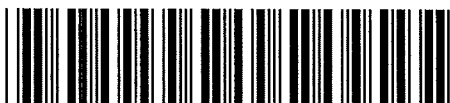
SECTION 2. Tennessee Code Annotated, Section 40-35-304, is amended by adding the following language as a new subsection:

(i)

(1) When sentencing a criminal defendant, a court may direct the defendant to make restitution to the victim of the offense as a condition of probation, or enter an order of restitution awarding a civil judgment of restitution to the victim of the offense. The victim of the offense may choose to receive restitution in the form of a civil judgment or in payments or performance by the defendant as a condition of probation.

(2) If the victim chooses to receive restitution in the form of a civil judgment, then the court shall enter a civil order for restitution, if appropriate.

The civil order for restitution:



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(A) May be enforced the same as any other judgment of a court of this state and is entitled to full faith and credit in this state and in any other state; and

(B) Is a final civil judgment at the time of entry and remains in effect from the date of entry until the judgment is paid in full or is otherwise discharged.

(3) If the victim chooses to receive restitution as a condition of the defendant's probation and, upon expiration of the time of payment or the payment schedule imposed pursuant to subsection (c) or (g), any portion of the restitution remains unpaid, then the victim or the victim's beneficiary may convert the unpaid balance into a civil judgment in accordance with the procedure set forth in subsection (h).

SECTION 3. Tennessee Code Annotated, Section 40-35-304, is amended by deleting subsection (d) and substituting instead the following:

(d) In determining the amount and method of payment or other restitution, the court may consider the financial resources and future ability of the defendant to pay or perform.

SECTION 4. Tennessee Code Annotated, Section 29-13-108(a), is amended by deleting the language "one (1) year" wherever it appears and substituting "two (2) years".

SECTION 5. This act takes effect July 1, 2021, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 283*

House Bill No. 904

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 17, Part 1, is amended by adding the following as a new section:

40-17-102.

(a) If a district attorney general is required to disclose to the defendant information including the name, contact information, or statements of a victim of a sexual offense under title 39, chapter 13, part 5; law enforcement informant, or witness who is expected to testify against a defendant charged with a crime involving a weapon or the use of force, then the district attorney general may petition the court for a protective order prohibiting the defendant and the defendant's counsel from publishing the victim, informant, or witness's name, contact information, or statements at any time prior to or during the trial. The petition must:

- (1) Be certified or supported by an affidavit of the victim, informant, or witness;
- (2) Identify the specific information that should be subject to prohibition from publication; and
- (3) Show good cause for issuing the protective order, which may include that allowing the defendant to publish the information is likely to result in coercion, intimidation, or harassment designed to discourage the victim, informant, or witness from testifying at trial or appearing as a witness.



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(b) If, after reviewing the petition, the court finds there is good cause for prohibiting the publishing of the information, then the court shall issue the protective order expressly limiting the publication of the victim, informant, or witness's information at any time prior to or during the trial.

(c) This section does not restrict the right of a defendant or defendant's counsel to conduct an investigation or interviews to be used at trial.

(d) A person who knowingly violates a protective order issued pursuant to this section commits a Class E felony.

SECTION 2. This act takes effect July 1, 2021, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 252

House Bill No. 109*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-28-116, is amended by adding the following as a new subsection (c):

(c)

(1) The board shall consider granting parole to a prisoner who has reached the release eligibility date for the prisoner's combined state sentences and has an active detainer commitment to serve a term of imprisonment in a foreign jurisdiction if:

(A) The term of imprisonment in the foreign jurisdiction is greater than the period of imprisonment left to serve on the prisoner's combined state sentences;

(B) The prisoner would otherwise be eligible for parole consideration; and

(C) The prisoner is a good candidate for parole release upon application of any release decision-making guidelines in use by the board.

(2) When a prisoner has a parole hearing, the department of correction must provide information to the board regarding filed active detainer commitments in which the prisoner is to serve a term of imprisonment.

(3) If parole release is granted to a detainer in a foreign jurisdiction, then the entity having custodial authority over the prisoner must file a notification



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request with the foreign jurisdiction for the remainder of any Tennessee sentence, prior to parole release.

SECTION 2. This act takes effect July 1, 2021, the public welfare requiring it.